

EXHIBIT 2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EFFYIS, INC., a Michigan corporation,
and HOTTOLINK, INC., a Japanese
corporation,

CASE NO. 18-CV-13391

HON. ROBERT H. CLELAND

Plaintiffs/Counter-Defendants,

v.

DARREN KELLY, an individual,

Defendant/Counter-Plaintiff.

**PLAINTIFFS/COUNTER-
DEFENDANTS' PROPOSED
FIRST AMENDED ANSWER
AND AFFIRMATIVE DEFENSES
TO DEFENDANT/COUNTER-
PLAINTIFF DARREN KELLY'S
COUNTERCLAIM**

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**PLAINTIFFS/COUNTER-DEFENDANTS' ANSWER AND AFFIRMATIVE
DEFENSES TO DEFENDANT/COUNTER-PLAINTIFF DARREN
KELLY'S COUNTERCLAIM**

NOW COME Plaintiffs/Counter-Defendants, EFFYIS, INC. and HOTTOLINK, INC., by and through their counsel, and for their answer to Defendant/Counter-Plaintiff Darren Kelly's Counterclaim, state as follows:

PARTIES, JURISDICTION AND VENUE

1. In response to paragraph 1, Plaintiff/Counter-Defendants admit the allegations contained herein.

2. In response to paragraph 2, Plaintiff/Counter-Defendants admit the allegations contained herein.

3. In response to paragraph 3, Plaintiff/Counter-Defendants admit the allegations contained herein.

4. In response to paragraph 4, Plaintiff/Counter-Defendants admit the allegations contained herein.

5. In response to paragraph 5, Plaintiff/Counter-Defendants admit the allegations contained herein.

GENERAL ALLEGATIONS

6. In response to paragraph 6, Plaintiff/Counter-Defendants admit the allegations contained herein.

7. In response to paragraph 7, Plaintiff/Counter-Defendants admit the allegations contained herein.

8. In response to paragraph 8, Plaintiff/Counter-Defendants admit the allegations contained herein.

9. In response to paragraph 9, Plaintiff/Counter-Defendants admit the allegations contained herein.

10. In response to paragraph 10, Plaintiff/Counter-Defendants admit only that Section 4 of the Agreement addressed the compensation to be paid to Defendant or his eligibility for benefits and the reimbursement of business expenses. Plaintiffs/Counter-Defendants deny the balance of the allegations contained herein for the reason they are untrue.

11. In response to paragraph 11, Plaintiff/Counter-Defendants admit the allegations contained herein.

11. [sic] In response to paragraph 11[sic], Plaintiff/Counter-Defendants admit the allegations contained herein.

12. In response to paragraph 12, Plaintiff/Counter-Defendants admit the allegations contained herein.

13. In response to paragraph 13, Plaintiff/Counter-Defendants admit the allegations contained herein.

14. In response to paragraph 14, Plaintiff/Counter-Defendants admit that, in the portion of the Notice of Termination titled “Basis for Termination – Facts and Circumstances,” Uchiyama stated a non-exhaustive list of the reasons for the termination of the employment of the Defendant.

15. In response to paragraph 15, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

16. In response to paragraph 16, Plaintiff/Counter-Defendants admit the allegations contained herein.

17. In response to paragraph 17, Plaintiff/Counter-Defendants admit the allegations contained herein.

18. In response to paragraph 18, Plaintiff/Counter-Defendants admit the allegations contained herein.

19. In response to paragraph 19, Plaintiff/Counter-Defendants admit the allegations contained herein.

20. In response to paragraph 20, Plaintiff/Counter-Defendants admit the allegations contained herein.

21. In response to paragraph 21, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

22. In response to paragraph 22, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

23. In response to paragraph 23, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

24. In response to paragraph 24, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

25. In response to paragraph 25, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

26. In response to paragraph 26, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

27. In response to paragraph 27, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

28. In response to paragraph 28, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

29. In response to paragraph 29, Plaintiff/Counter-Defendants deny for want of knowledge sufficient to form a belief as to the truth of the allegations.

30. In response to paragraph 30, Plaintiff/Counter-Defendants admit the allegations contained herein.

31. In response to paragraph 31, Plaintiff/Counter-Defendants admit the allegations contained herein.

32. In response to paragraph 32, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

33. In response to paragraph 33, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

34. In response to paragraph 34, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

35. In response to paragraph 35, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

36. In response to paragraph 36, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

37. In response to paragraph 37, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

38. In response to paragraph 38, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

39. In response to paragraph 39, Plaintiff/Counter-Defendants admit the allegations contained herein.

40. In response to paragraph 40, Plaintiff/Counter-Defendants admit the allegations contained herein.

41. In response to paragraph 41, Plaintiff/Counter-Defendants admit the allegations contained herein.

42. In response to paragraph 42, Plaintiff/Counter-Defendants admit the allegations contained herein.

43. In response to paragraph 43, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

44. In response to paragraph 44, Plaintiff/Counter-Defendants admit the allegations contained herein.

45. In response to paragraph 45, Plaintiff/Counter-Defendants admit the allegations contained herein.

46. In response to paragraph 46, Plaintiff/Counter-Defendants admit the allegations contained herein.

47. In response to paragraph 47, Plaintiff/Counter-Defendants admit the allegations contained herein.

CLAIMS
COUNT ONE:
BREACH OF CONTRACT

48. Plaintiffs/Counter-Defendants restate and reallege their answers to paragraphs 1 through 47 as more thoroughly set forth herein.

49. In response to paragraph 49, Plaintiff/Counter-Defendants admit the allegations contained herein.

50. In response to paragraph 50, Plaintiff/Counter-Defendants admit the allegations contained herein.

51. In response to paragraph 51, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

52. In response to paragraph 52, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

53. In response to paragraph 53, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

54. In response to paragraph 54, Plaintiff/Counter-Defendants deny the allegations contained herein for the reason they are untrue.

In further response, Plaintiffs/Counter-Defendants deny all allegations of the Counterclaim which are not expressly admitted.

WHEREFORE, Plaintiffs/Counter-Defendants respectfully request this Honorable Court to dismiss Defendant/Counter-Plaintiff's Counterclaim in its entirety with prejudice, award Plaintiffs/Counter-Defendants their costs and attorney's fees so wrongfully incurred in having to defend the Counterclaim, and grant Plaintiffs/Counter-Defendants and such other and further relief deemed equitable and just under the circumstances.

AFFIRMATIVE DEFENSES

In further response, Plaintiffs/Counter-Defendants assert and intend to rely upon the following Affirmative Defenses at trial in this matter:

1. The Counterclaim fails to state a claim for which relief can be granted.
2. Defendant/Counter-Plaintiff has waived all rights under the Employment Agreement.

3. The claims in the Counterclaim fail because of the principle of accord and satisfaction.

4. The claims in the Counterclaim fail because of Defendant/Counter-Plaintiff's prior breach of the Agreement.

5. The claims in the Counterclaim fail because of the doctrine of Laches.

6. Defendant/Counter-Plaintiff's email dated April 13, 2017 constitutes a release of claims against the Plaintiffs/Counter-Defendants.

7. Defendant/Counter-Plaintiff is estopped from asserting a right of revocation.

8. The Counterclaim fails because Defendant/Counter-Plaintiff failed to mitigate his damages.

9. The Counterclaim fails pursuant to the after-acquired evidence doctrine.

10. Plaintiffs/Counter-Defendants reserve the right to add such other and further affirmative defenses as may become known during discovery.

Dated: August __, 2019

Respectfully submitted,

ABBOTT NICHOLSON, P.C.

By: /s/ William D. Gilbride, Jr.

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